IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 19 of 2001.

Reserved on: 07.08.2007.

Decided on: 09.08.2007.

Rani Devi. … … Petitioner.

Versus

The Director of Consolidation and Others. … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting?[1] *No.*

For the Petitioner:	**Mr. Bhupender Gupta, Senior Advocate with Mr. Neeraj Gupta, Advocate.**
For Respondents No.1 & 2:	**Mr. M.S. Chandel, Advocate General with Mr. M.A. Khan and Ms. Meenakshi Sharma, Deputy Advocate Generals.**
For Respondent No.3:	**Mr. K.D. Sood, Advocate.**
For Respondents No.4 to 8:	**Mr. R.K. Bawa, Sr. Advocate with Mr. Inderjit Narwal, Advocate.**

Rajiv Sharma, Judge:

A challenge has been laid by the petitioner to the order passed by the Additional Director, Consolidation of Holdings, H.P., Shimla dated 23.3.2000 in case No.276/1998.

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[1] *Whether reporters of local papers may be allowed to see the judgment? No.*

The brief facts necessary for the adjudication of this petition are that the petitioner had filed a revision petition under Section 54 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 before the Additional Director of Consolidation, H.P., Shimla on 16.10.1998. The following prayer was made by the petitioner in her revision petition:-

> **"It is therefore prayed that the land comprised in Khasra No.201, 243, 362, 361, 363, 453, 455, 457, 459, situated on the road side be given as per shares of the parties as framed in Consolidation Scheme and land measuring are 0-06-32 Hects. Of 8' Value which has been allotted less to the appellant be given to him and the land which has been allotted to the appellant against the basic Consolidation scheme be given back to respondents."**

It appears from the record that the Additional Director of Consolidation of Holdings, Shimla had directed the Assistant Consolidation Officer, Dehra to visit the spot and submit the report. The Assistant Consolidation Officer, Dehra had submitted the report to the Director, Consolidation vide Annexure P-2. The Additional Director, Consolidation of Holdings, H.P. had dismissed the revision on 23.3.2000.

Mr. Bhupender Gupta had strenuously argued that the report furnished by the Assistant Consolidation Officer pursuant to the order passed by the Additional Director, Consolidation was required to be considered at the time of final decision, i.e. on

23.3.2000. The learned Advocate General, Mr. K.D. Sood and Mr. R.K. Bawa had supported the order dated 23.3.2000. Mr. Bawa had also contended that it was not necessary for the Additional Director, Consolidation to consider the report furnished by the Assistant Consolidation Officer once he himself had decided to visit the spot.

I have heard the parties and perused the record.

The position which emerges from the afore-stated facts is that the revision petition under Section 54 of the Himachal Pradesh Holdings (Consolidation and Prevention of Fragmentation) Act, 1971 had been filed by the petitioner before the Director of Consolidation, H.P., Shimla on 16.10.1998. The Additional Director of Consolidation had directed the Assistant Consolidation Officer to visit the spot and to submit the report. Consequently, the Assistant Consolidation Officer, Dehra had submitted the report dated 11.11.1998 to the Director. Once the report had been called for by the Additional Director, Consolidation from the Assistant Consolidation Officer, Dehra, the same was to be considered by him. I have perused both the orders dated 23.3.2000 i.e. Annexures P-3 and P-4. The report dated 11.11.1998 furnished by the Assistant Consolidation Officer, Dehra has not been considered by the Additional Director, Consolidation while passing the order dated 23.3.2000. There was no bar so far as the Additional Director, Consolidation visiting the spot, but before that he was required either to accept or to reject the report dated 11.11.1998 furnished by the Assistant

Consolidation Officer. The Additional Director, Consolidation had visited the spot without agreeing or dis-agreeing with the report of the Assistant Consolidation Officer, dated 11.11.1998.

The Additional Director, Consolidation had passed two detailed orders on the same date, i.e. 23.3.2000. The explanation put forth by the learned Advocate General for passing two separate orders is only that the first order was passed on order sheet and thereafter the regular order was passed on the same date. The Court is not satisfied with the explanation put forth by the learned Advocate General. There ought to be only one detailed order and passing of two detailed orders on the same date is improper. The Director, Consolidation of Holdings, H.P. should ensure in future that there is only one order passed by the competent authority under the Act.

The upshot of the above discussion is that the order dated 23.3.2000 is vitiated by non-consideration of the report furnished by the Assistant Consolidation Officer, dated 11.11.1998.

Accordingly, this petition is allowed. The order dated 23.3.2000 is quashed and set aside. The case is remanded back to the Additional Director, Consolidation to pass fresh orders after taking into consideration the report furnished by the Assistant Consolidation Officer, dated 11.11.1998. The parties are permitted to advance all the pleas before the Additional Director, Consolidation during the course of hearing which have been raised before this Court. To avoid delay, the parties are directed

to appear before the Additional Director, Consolidation on August 20, 2007.

There shall be no order as to costs.

(Rajiv Sharma) Judge.

August 9, 2007.
(sck)